

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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DEREK RODNEY GOFF,

Plaintiff,

v.

COUNTY OF ELKO, *et al.*,

Defendants.

Case No. 3:22-cv-00342-MMD-CSD

ORDER

I. SUMMARY

Plaintiff Derek Rodney Goff brings this civil-rights action under 42 U.S.C. § 1983 to redress constitutional violations that he claims he suffered while incarcerated at the Elko County Jail. (ECF No. 1-1.) On August 23, 2022, the Court ordered Goff to update his address by September 23, 2022. (ECF No. 5.) That deadline expired without an updated address from Goff, and his mail from the Court is being returned as undeliverable. (ECF Nos. 3, 4.)

II. DISCUSSION

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party’s failure to obey a court order or comply with local rules. See *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order). In determining whether to dismiss an action on one of these grounds, the Court must consider: (1) the public’s

1 interest in expeditious resolution of litigation; (2) the Court's need to manage its docket;
2 (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of
3 cases on their merits; and (5) the availability of less drastic alternatives. *See In re*
4 *Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting
5 *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987)).

6 The first two factors, the public's interest in expeditiously resolving this litigation
7 and the Court's interest in managing its docket, weigh in favor of dismissal of Goff's
8 claims. The third factor, risk of prejudice to the defendants, also weighs in favor of
9 dismissal because a presumption of injury arises from the occurrence of unreasonable
10 delay in filing a pleading ordered by the Court or prosecuting an action. *See Anderson v.*
11 *Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—the public policy favoring
12 disposition of cases on their merits—is greatly outweighed by the factors favoring
13 dismissal.

14 The fifth factor requires the Court to consider whether less drastic alternatives can
15 be used to correct the party's failure that brought about the Court's need to consider
16 dismissal. *See Yourish v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining
17 that considering less drastic alternatives *before* the party has disobeyed a court order
18 does not satisfy this factor); *accord Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th
19 Cir. 2002) (explaining that “the persuasive force of” earlier Ninth Circuit cases that
20 “implicitly accepted pursuit of less drastic alternatives prior to disobedience of the court's
21 order as satisfying this element[,]” *i.e.*, like the “initial granting of leave to amend coupled
22 with the warning of dismissal for failure to comply[,]” have been “eroded” by *Yourish*).
23 Courts “need not exhaust every sanction short of dismissal before finally dismissing a
24 case, but must explore possible and meaningful alternatives.” *Henderson v. Duncan*, 779
25 F.2d 1421, 1424 (9th Cir. 1986). Because this action cannot realistically proceed without
26 the ability for the Court and Defendants to send Goff case-related documents, filings, and
27 orders, the only alternative is to enter a second order setting another deadline. But without
28 an updated address, the likelihood that the second order would even reach Goff is low,

1 so issuing a second order will only delay the inevitable and further squander the Court's
2 finite resources. Setting another deadline is not a meaningful alternative given these
3 circumstances. So the fifth factor favors dismissal.


4 **III. CONCLUSION**

5 Having thoroughly considered these dismissal factors, the Court finds that they
6 weigh in favor of dismissal.

7 It is therefore ordered that this action is dismissed without prejudice based on
8 Goff's failure to file an updated address in compliance with the Court's August 23, 2022,
9 order.

10 The Clerk of Court is directed to enter judgment accordingly and close this case.
11 No other documents may be filed in this now-closed case. If Goff wishes to pursue his
12 claims, he must file a complaint in a new case and provide the Court with his current
13 address.

14 DATED THIS 3rd Day of October 2022.

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18 MIRANDA M. DU
19 CHIEF UNITED STATES DISTRICT JUDGE
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